S.B. CIVIL MISC. APPEAL NO. 115/2005

Date : 06.03.2006

HON'BLE MR. BHAGWATI PRASAD.J.

Mr. S.D. Purohit for the appellant

Heard.

This appeal is filed against the findings of the learned District Judge on the application under Section 34 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as `the Act'). An application under Section 34 of the Act is liable to be made in terms of Sub-section 3 of Section 34 within the time prescribed. Admittedly, the award was communicated to the appellant on 14.06.2000. The application was moved on 31.10.2000 i.e. after four months. The limitation under Sub-section (3) of Section 34 of the Act is three months and a further period of 30 days may be extended if the Court is satisfied that the party was prevented from making an application for sufficient reason. The trial court has noticed that no sufficient reason has been shown by the appellant, therefore there is no question of extension of time. Further even if extension is granted, the application will still be barred by limitation. Therefore, the learned District Judge dismissed the application.

Assailing the order passed by learned District Judge, learned counsel for the appellant submitted that since, he had made the application under Section 33 of the Act for correction and interpretation of the award, the limitation should have started after 60 days as provided in Sub-section 3 of

Section 34 of the Act.

Learned counsel for the appellant was requested to read the application which he has filed under Section 33 of the Act. The application under Section 33 of the Act can be an application for correction and interpretation of the award. But the prayer as read to the Court contained only a prayer for reviewing the award which is not the domain of Section 33 of the Act. By no stretch of imagination, the application as alleged to have been filed by the appellant on 16.06.2000 before the Arbitration authorities would not come within the domain of Section 33 of the Act. Therefore, the argument of the learned counsel that the limitation would start after the decision of the application under Section 33 of the Act is not sustainable. In that view of the matter, the application was clearly barred by limitation under Section 34 of the Act. The application having been dismissed by the trial court on the question of limitation, this court feels that the jurisdiction was rightly exercised by the trial court. No case for interference is made out. The appeal having no force is hereby dismissed.

While hearing the appeal, it was brought to the notice of the Court that an application under Section 5 of the Limitation Act has been moved by the appellant before this Court. In the facts and circumstances of the case, this application is not considered to be maintainable.

(BHAGWATI PRASAD), J.